

## *Strategic Goal: A Credible Deterrent to Pollution and Greater Compliance with the Law*

EPA will ensure full compliance with the laws intended to protect human health and the environment.

### BACKGROUND AND CONTEXT

Protecting the public and the environment from risks posed by violations of environmental requirements is, and always has been, basic to EPA's mission. Many of America's environmental improvements over the last 25 years are attributable to a strong set of environmental laws and an

expectation of compliance with those laws. EPA's strong and aggressive enforcement program has been the centerpiece of efforts to ensure compliance, and has achieved significant improvements in human health and the environment.

### MEANS AND STRATEGIES

Many of the environmental improvements in this country during the past three decades can be attributed to a strong set of environmental laws and EPA's aggressive enforcement of them. Due to the breadth and diversity of private, public, and federal facilities regulated by EPA under various statutes, the Agency needs to target its enforcement and compliance assurance activities strategically to address the most significant risks to human health and the environment and to ensure that certain populations do not bear a disproportionate environmental burden. A strong enforcement program identifies noncompliance problems, punishes violators, strives to secure a level economic playing field for law-abiding companies, and deters future violations. EPA's continued enforcement efforts will be strengthened through the development of measures to assess the impact of enforcement activities and assist in targeting high priority areas.

State, Tribal and local governments bear much of the responsibility for ensuring compliance, and EPA works in partnership with them and other Federal agencies to promote environmental

protection. Further, EPA cooperates with other nations to enforce and ensure compliance with international agreements affecting the environment. At the Federal level, EPA addresses its responsibilities under the National Environmental Policy Act (NEPA) by seeking remedies for potentially adverse impacts of major actions taken by EPA and other Federal agencies.

The Agency's enforcement and compliance assurance program uses compliance assistance and incentives tools to enhance voluntary compliance with regulatory requirements and reduce adverse public health and environmental problems. Maximum compliance requires the active efforts of the regulated community to police itself. EPA supports the regulated community by assuring that requirements are clearly understood and by helping industry find cost-effective options to comply through the use of pollution prevention and innovative technology. EPA will continue to explore options for encouraging self-directed audits and disclosure; measuring and evaluating the effectiveness of Agency programs in improving compliance rates; providing information and

compliance assistance to the regulated community; and developing innovative approaches to meeting environmental standards through better

communication, cooperative approaches and application of new technologies.

## EXTERNAL FACTORS

EPA's enforcement program's ability to meet its annual performance goals may be affected by a number of factors. Projected performance would be impacted by natural catastrophes, such as major floods, or significant chemical spills, that require a redirection of enforcement resources to address immediate environmental threats. Many of the targets are predicated on the assumption that state and tribal partners will continue or increase their levels of enforcement and compliance work. If these assumptions do not come to fruition, EPA's resources may be needed to cover priority areas. In addition, several EPA targets rely on the Department of Justice (DOJ) to accept and execute case loads. The success of EPA's activities hinge on the availability and applicability of technology and information systems. Finally, the regulated community's

level of effort to comply with the law will greatly influence EPA's ability to meet its performance goals.

Other factors such as the number of projects subject to scoping requirements initiated by other federal agencies, the number of draft/final documents (Environmental Assessments and Environmental Impact Statements) submitted to EPA for review, streamlining requirements of Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), and the responsiveness of other federal agencies to environmental concerns raised by EPA may also impact the Agency's ability to meet its performance goals.

The Agency's ability to address issues under the National Environmental Policy Act (NEPA) may be significantly affected by the number of project proposals submitted to EPA for funding or permits that require NEPA compliance.

## *Resource Summary*

(Dollars in Thousands)

	FY 1999 Enacted	FY 2000 Request	FY 2000 Req. v. FY 1999 Enacted
<b>A Credible Deterrent to Pollution and Greater Compliance with the Law</b>	<b>\$319,390.3</b>	<b>\$331,335.0</b>	<b>\$11,944.7</b>
Enforcement Tools to Reduce Non-Environmental Program & Management	\$272,965.9	\$292,917.6	\$19,951.7
Science & Technology	\$181,844.0	\$200,936.9	\$19,092.9
State and Tribal Assistance Grants	\$8,583.9	\$8,892.9	\$309.0
Hazardous Substance Superfund	\$67,884.4	\$68,284.3	\$399.9
Increase Use of Auditing, Self-Policing	\$14,653.6	\$14,803.5	\$149.9
Environmental Program & Management	\$38,417.4	(\$8,007.0)	
Science & Technology	\$43,940.3	\$35,757.9	(\$8,182.4)
State and Tribal Assistance Grants	\$0.0	\$0.0	\$0.0
Hazardous Substance Superfund	\$2,214.2	\$2,214.2	\$0.0
Total Workyears:	\$269.9	\$445.3	\$175.4
	2,554.4	2,540.1	-14.3

## Strategic Objective: Enforcement Tools to Reduce Non-Compliance

Identify and reduce significant non-compliance in high priority program areas, while maintaining a strong enforcement presence in all regulatory program areas.

### *Key Programs*

(Dollars in Thousands)

	<b>FY 1999 Enacted</b>	<b>FY 2000 Request</b>
Civil Enforcement - CWAP/AFO Related	\$0.0	\$1,462.0
RCRA State Grants	\$43,222.7	\$43,227.0
Compliance Monitoring	\$56,838.9	\$64,170.3
Civil Enforcement	\$83,090.4	\$89,863.6
Criminal Enforcement	\$33,786.5	\$35,635.4
Compliance Assistance and Centers	\$37.2	\$0.0
Enforcement Training	\$4,435.8	\$5,117.2
State Pesticides Enforcement Grants	\$19,511.4	\$19,911.6
State Toxics Enforcement Grants	\$5,150.0	\$5,150.0

## *Annual Performance Goals and Measures*

### **NON-COMPLIANCE REDUCTION**

In 2000      Deter and reduce noncompliance and achieve environmental human health improvements by maintaining a strong, timely & active enforcement presence. EPA will direct enforcement actions to maximize compliance and address environmental human health problems; 75% of concluded enforcement actions will require environmental or human health improvements, such as pollution. Reduction and/or physical management process changes.

<b>Performance Measures:</b>	<b>FY 1999</b>	<b>FY 2000</b>
Percent of actions which require pollutant reductions	35 percent	
Estimated pounds of pollutants reduced (aggregate)		300 M pounds
Est. statistically valid noncompl. rates or other indicators of noncompl. for selected env. problems		5 indicators
Establish baseline to measure percentage of significant violators with reoccurring significant violations w/i 2 years of returning to compliance.		1 baseline
Establish baseline to measure average length of time for significant violators to return to compliance or enter enforceable plans/agreements		1 baseline
Produce report on the number of civil and criminal enforcement actions initiated and concluded.		1 reports
<b>Baseline:</b> By the end of FY99 the program will be able to report statistically valid noncompliance rates for selected EPA programs, selected sectors & other special populations (e.g., fully-inspected universes).		

## COMPLIANCE MONITORING ACTIVITIES

- In 2000 Deter non-compliance by maintaining appropriate levels of compliance monitoring activity, particularly in priority areas. In 2000, EPA will conduct 15,700 inspections and investigations, 50% of which are targeted at priority areas.
- In 1999 Deter non-compliance by maintaining levels of field presence and enforcement actions, particularly in high risk areas and/or where populations are disproportionately exposed. In 1999, EPA will conduct 15,000 inspections and undertake 2,600 enforcement actions.

<b>Performance Measures:</b>	<b>FY 1999</b>	<b>FY 2000</b>
Number of criminal and civil investigations investigation		700
Number of EPA inspections inspection		15000
Percent of inspections and investigation (civil and criminal) conducted at priority areas		50 percent
EPA Inspections	15000 Inspections	

**Baseline:** The number of inspections conducted annually has remained fairly consistent in recent years. This information is the basis for the 2000 projections, with adjustments made for changes in resource levels. In 2000, the enforcement program will target 50% of its inspections to priority areas. These areas will be identified in an internal guidance document which sets forth specific priorities for 2000 and forms the basis for this calculation.

## CAPACITY BUILDING

In 2000 Improve capacity of states, localities and tribes to conduct enforcement and compliance assurance programs. EPA will provide grants, guidance documents, training, classes and seminars, and assist with selected inspections.

In 1999 Assist states and tribes with their enforcement and compliance assurance and incentive programs. EPA will provide specialized assistance and training, including 83 courses, to state and tribal officials to enhance the effectiveness of their programs.

<b>Performance Measures:</b>	<b>FY 1999</b>	<b>FY 2000</b>
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Specialized assistance & training	83 Courses	
Number of EPA training classes/ seminars delivered to states, localities and tribes to build capacity		83 classes

**Baseline:** 89 training sessions in FY97.

## QUALITY ASSURANCE

In 1999 Target high priority areas for enforcement and compliance assistance and complete baseline data assessment in major databases needed to measure quality of key indicators of compliance. The Agency will identify five high priority areas and improve 2 of their data systems.

<b>Performance Measures:</b>	<b>FY 1999</b>	<b>FY 2000</b>
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Data system improvement to capture changes to 98 base	2 Data System	
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**Baseline:** EPA has generally reliable data for its compliance monitoring & enforcement activities, although the Agency is working to modernize these data systems & improve data integration & consistency. The Agency will complete baseline assessments of the data systems by the end of 1999. These assessments include data quality issues such as completeness, integrity, and accuracy. Beginning in 2000, the Agency will conduct annual audits.

## INTERNATIONAL ENFORCEMENT

In 2000 Ensure compliance with legal req. by assuring that haz. wst exports from the U.S. are

properly handled. Implement U.S. international commitments, and gain enforcement and compliance cooperation with other countries, especially along U.S. borders (Mexico/Canada).

<b>Performance Measures:</b>	<b>FY 1999</b>	<b>FY 2000</b>
Ensure proper handling of 230,000 tons of hazardous waste exports		230,000 tons
<b>Baseline:</b> 226,000 tons in FY 1997 of hazardous waste exports.		

## VERIFICATION AND VALIDATION OF PERFORMANCE MEASURES

The following are databases that contain baseline performance information and their sources

- \$ National Compliance Data Base (NCDB) / FIFRA/TSCA Tracking system (FTTS) - EPA Headquarters (HQ), EPA regions, and states.
- \$ DOCKET - EPA HQ and regions
- \$ Permit Compliance System (PCS) - EPA regions and states
- \$ FIFRA Section Seven Tracking System (SSTS) - EPA regions
- \$ FIFRA Laboratory Inspection Study Audit (LISA) - EPA HQ and regions
- \$ Pesticide Registration Enforcement System (PRES) - EPA HQ
- \$ Waste Import Tracking System (WITS) - EPA regions
- \$ CERCLIS - EPA regions Integrated Data for Enforcement Analysis (IDEA) - EPA compliance and enforcement data bases and external data sources
- \$ Resource Conservation and Recovery Information System (RCRIS) - EPA regions and states (11) Safe Drinking Water Information

for the enforcement and compliance assurance program:

- System (SDWIS) - EPA regions and states
- \$ AIRS Air Facility Subsystem (AFS) - EPA regions and states and locals
- \$ Asbestos Contractor Tracking System (ACTS)/ National Asbestos Registry System (NARS) - EPA regions and states

While specific data entry/QC practices may vary by individual system, each system has been developed in accordance with Office of Information Resources Management (OIRM) Lifecycle Management Guidance. The systems incorporate data validation processes and include internal screen audit checks and verification, detailed system and user documentation, data quality audit reports, third party testing reports and detailed report specifications for showing how report data are calculated. EPA is also developing and implementing detailed system specific Quality Management Plans for all its systems. These plans will include development of Data Quality Objectives, Quality Assurance Project Plans and Standard Operating Procedures. The enforcement program conducted data evaluation and implement improved processes during 1998 and 1999 for enforcement data related to anticipated

environmental outcomes.

Continuous and accurate data entry to the national data systems is crucial to EPA's ability to assess compliance with environmental laws and regulations. Questions have been raised -- internally and externally -- about the quality and completeness of the data in the systems as well as the ability of our existing systems to meet our data needs. Differences in the definitions of noncompliance applied by state agencies and/or state failure to report to EPA in a timely and comprehensive fashion affect EPA's ability to determine compliance patterns across the national program. However, many state and EPA staff have noted difficulty in using the systems and that the data are not useful for program implementation. Some of the data limitations reflect systems problems -- for example, enforcement systems are on multiple platforms and use different software, many of which are technologically obsolete and difficult to use. Further, the incompatible database structures and designs make effective multi-media analysis extremely difficult and provide questionable results. Differences in data definitions within each system make it difficult to link facility data for all media programs.

The enforcement program will also undertake modernization design in 2000 and will complete the concept and design phase of the General Enforcement Management System (GEMS). GEMS will be designed to be a consolidated enforcement and compliance data management system that will support the core information needs of EPA's National Enforcement and Compliance Assurance program. Utilizing business process re-engineering techniques and system life cycle management processes for its development, this system will include such basic components as tracking of facility inspections, violations and enforcement actions, as well as addressing more complex needs for compliance assistance tracking, multimedia planning, targeting and evaluation. GEMS will, to the maximum extent possible, provide a consistent

framework, process and structure for how the Agency collects and tracks compliance and enforcement information with consistent elements across all statutory programs, e.g., air, water, and waste.

A number of external reports and internal reviews have described problems in the quality of EPA's data quality and analysis of enforcement and compliance information. A data quality survey, widely distributed within EPA Headquarters and Regions and to nine states, solicited respondents' views on the nature and extent of enforcement and compliance data problems. A subsequent Strategic and Tactical Automation Plan, developed to address these problems and criticisms, supports the Environmental Compliance Initiative and other data management improvements. Regional reviews of data quality of enforcement and compliance information will continue in 2000.

A series of reports issued by EPA Inspector General in 1997 address problems states have identifying and reporting of Clean Air Act significant violators, which has impaired EPA's ability to evaluate the levels of noncompliance in that program. As follow up, the enforcement and compliance assurance program is preparing trend analyses using information in the AFS to identify states most likely to have problems.

With significant state participation, EPA is working on several projects to obtain more comprehensive and accurate compliance information for the universe of regulated entities:

- The National Performance Measures Strategy, intended to identify and implement an enhanced set of performance measures for EPA's enforcement and compliance program, will provide new, more detailed information on levels of compliance in regulated populations and enhanced data on environmental and public health improvements from enforcement



efforts.

- For five key industrial sectors, the Sector Facilities Indexing Project (SFIP) provides environmental and background data, including numbers of inspections, compliance with Federal regulations, enforcement actions taken, chemical releases and spills, location and production capacity, and surrounding population.
- Other sector-based initiative implemented in partnership with industry, including root cause analyses projects, are designed to provide more detailed accounts of inspection and enforcement activity over time, violations by media and by specific pollutants released, and the causes of these violations.
- The Enforcement and Compliance Information (ECI) program, a long-range initiative to re-engineer EPA's approach to integrated information, is intended to improve data quality and its uses and to improve public access and understanding of enforcement and compliance data.
- The Quality Management Plan (QMP) project, to be completed in 2000, establishes system specific data quality

objectives which specify how data will be used and limits on decision errors. QMPs involve developing quality assurance project plans to document how quality assurance and quality control activities will be implemented, setting standard operating procedures for assessing data quality; and conducting quality reviews to assess progress in meeting our goals. QMPs are underway for the NCDB and RCRIS systems and were completed in 1999 for PCS, AIRS and DOCKET.

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The enforcement and compliance assurance program's DOCKET System is used to record Federal administrative and judicial enforcement actions by the Regions and headquarters. This system is the source of official action on Federal enforcement. The records include information on company name, facility location, statute under which the action was taken, penalties, costs of coming into compliance, nature of complying action needed to be taken (e.g. industrial process change, emissions reduction), pollutants addressed, and Supplemental Environmental Projects. Information on State enforcement is tracked in other National media data systems such as RCRIS, PCS, and AFS, and is not as detailed.

## STATUTORY AUTHORITIES

Resource Conservation and Recovery Act sections 3007, 3008, 3013, and 7003 (42 U.S.C. 6927, 6928, 6934, 6973)

Comprehensive Environmental Response, Compensation, and Liability Act sections 106, 107, 109, and 122 (42 U.S.C. 9606, 9607, 9609, 9622)

Clean Water Act (CWA) sections 308, 309, and 311 (33 U.S.C. 1318, 1319, 1321)

Safe Drinking Water Act sections 1413, 1414, 1417, 1422, 1423, 1425, 1431, 1432, 1445 (42 U.S.C. 300g-2, 300g-3, 300g-6, 300h-1, 300h-2, 300h-4, 300i, 300i-1, 300j-4)

Clean Air Act sections 113, 114, and 303 (42 U.S.C. 7413, 7414, 7603)

Toxic Substances Control Act (TSCA) sections 11, 16, and 17 and TSCA Titles II and IV (15 U.S.C. 2610, 2615, 2616, 2641-2656, 2681-2692)

Emergency Planning and Community Right-to-Know Act sections 325 and 326 (42 U.S.C. 11045, 11046)

Federal Insecticide, Fungicide, and Rodenticide Act sections 8, 9, 12, 13, and 14 (7 U.S.C. 136f, 136g, 136j, 136k, 136l)

Ocean Dumping Act sections 101, 104B, 105, and 107 (33 U.S.C. 1411, 1414B, 1415, 1417)

North American Agreement on Environmental Cooperation

1983 La Paz Agreement on US/Mexico Border Region

National Environmental Policy Act (NEPA) section 102(f)

Pollution Prosecution Act of 1990 (42 U.S.C. section 4321 note)

## Strategic Objective: Increase Use of Auditing, Self-Policing Policies

Promote the regulated communities' voluntary compliance with environmental requirements through compliance incentives and assistance programs.

### *Key Programs*

(Dollars in Thousands)

	<b>FY 1999 Enacted</b>	<b>FY 2000 Request</b>
Project XL	\$2,904.6	\$3,008.5
Common Sense Initiative	\$1,082.8	\$714.3
Compliance Assistance and Centers	\$23,178.2	\$18,054.5
Compliance Incentives	\$4,075.6	\$3,646.0
NEPA Implementation	\$9,401.6	\$9,697.7
State Pesticides Enforcement Grants	\$0.0	\$0.0
State Toxics Enforcement Grants	\$2,214.2	\$2,214.2

### *Annual Performance Goals and Measures*

#### COMPLIANCE INCENTIVES

In 2000      Increase entities self-policing and self-correction of environmental problems through use of EPA incentive policies: small business, small community and audit policies over FY97 levels.

<b>Performance Measures:</b>	<b>FY 1999</b>	<b>FY 2000</b>
Number of facilities that self-disclosed potential violations.		1150 facilities

**Baseline:**      Under EPA's audit policy as of January 1996, 274 companies have disclosed environmental violations at more than 966 facilities nationally & EPA has reduced or waived penalties for 105 companies at 452 facilities.

**REGULATED COMMUNITIES**

In 1999      Increase regulated community's use of compliance incentives and their understanding of, and ability to comply with, regulatory requirements. The Agency will cont. to operate 9 small business compl. asst. centers and will complete sector notebooks, guides, and other outreach materials begun in FY98.

<b>Performance Measures:</b>	<b>FY 1999</b>	<b>FY 2000</b>
Compliance Assistance Centers in Operation	9 Centers	
Compliance Tools Development	5 Sector Guides	
Federal Facility Management Reviews	15 Reviews	

**Baseline:**      The Enforcement & Compliance Assurance program collects information from the Regions annually on how many facilities are being reached through compliance assistance efforts. In 1997, EPA conducted 8,830 activities across all sectors and statutes and reached 342,310 facilities. The number of compliance assistance tools developed in 1997 was 1,190. This is the basis for determining the 2000 projection.

**VERIFICATION AND VALIDATION OF PERFORMANCE MEASURES**

The following database contains Goal 9, Objective 2, baseline performance information and the sources providing this information:

\$ Docket - EPA HQ and regions

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Information on the application of the self-policing policy, as well as targeted assistance, is tracked manually. The enforcement and compliance assurance program will complete the assessment of recording and producing information on the self-policing policy in DOCKET.

In 1997 the enforcement and compliance assurance program assessed its 1996 targeted compliance assistance data and developed a series of recommended improvements. The program implemented several improvements in 1997 and 1998 to manually track compliance assistance data. The program continues to assess the suitability of tracking targeted compliance assistance in the national database systems.

## STATUTORY AUTHORITY

Resource Conservation and Recovery Act sections 3007, 3008, 3013, and 7003 (42 U.S.C. 6927, 6928, 6934, 6973)

Comprehensive Environmental Response, Compensation, and Liability Act sections 106, 107, 109, and 122 (42 U.S.C. 9606, 9607, 9609, 9622)

Clean Water Act (CWA) sections 308, 309, and 311 (33 U.S.C. 1318, 1319, 1321)

Safe Drinking Water Act section 1413, 1414, 1417, 1422, 1423, 1425, 1431, 1432, 1445 (42 U.S.C. 300g-2, 300g-3, 300g-6, 300h-1, 300h-2, 300h-4, 300i, 300i-1, 300j-4)

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Ocean Dumping Act sections 101, 104B, 105, and 107 (33 U.S.C. 1411, 1414B, 1415, 1417)

National Environmental Policy Act (NEPA)